IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

I.T.A. No.256 of 2007

Date of Decision: 26-07-2007

M/s Devinder Exports, Ludhiana

....Appellant

Versus

Commissioner of Income Tax, Ludhiana

...Respondent

CORAM : Hon'ble Mr. Justice M.M. Kumar
Hon'ble Mr. Justice Ajay Kumar Mittal

Present:- Mr. Pankaj Jain, Advocate
for the appellant.

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M.M. KUMAR, J.

This order shall dispose of I.T.A. Nos.256, 258 and 259 of 2007 as all the appeals raised common question of fact. Even the question of law is similar in all the appeals as it pertains to acceptance of claim made by the assessee under Section 80IB of the Income Tax Act,1961 (for brevity `the Act') on account of Duty Draw Back. In similar matter decided by us today in I.T.A Nos.495 and 496 of 2006, the question has been answered in favour of the revenue and against the assessee. In the present appeals, the Tribunal has taken the same view holding that the income of the assessee from Duty Draw Back could not be held to be `income derived from specified business'. In that regard, the Tribunal has placed reliance on the judgment of Hon'ble the Supreme Court in the case of **C.I.T. v. Sterling**

(1999) 237 ITR 579 and also a Division Bench Judgment of this Court in **M/s Liberty India v. C.I.T. Karnal (2007) 207 CTR 243**.

After taking into consideration various arguments in the connected appeals, I.T.A. Nos.495 and 496 of 2006 decided on 26-07-2007, we have answered the question in favour of the revenue. For all the reasons recorded in the orders passed in those appeals, these appeals are also liable to be decided accordingly.

In view of the above, the appeals are decided against the assessee and in favour of the revenue and the order passed by the Tribunal is upheld.

(M.M. KUMAR)
JUDGE

(AJAY KUMAR MITTAL)
JUDGE

July 26,2007.
gurpreet